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President Shelly Testifies to Avoid the Closure of the Navajo Generating Station

Could lead to catastrophic economic impacts for the Navajo Nation

Washington, D.C.—Today Navajo Nation President Ben Shelly testified before the Natural Resources Committee and urged the Subcommittee on Water and Power and Subcommittee on Indian and Alaska Native Affairs to continue the operation of the Navajo Generating Station.

President Shelly's statement follows:

Statement of Ben Shelly, President
The Navajo Nation
Before The Natural Resources Committee
Subcommittee on Water and Power and Subcommittee on Indian and Alaska Native Affairs
Oversight Hearing on, "Protecting Long-Term Tribal Energy Jobs and Keeping Arizona Water and Power Costs Affordable: The Current and Future Role of the Navajo Generating Station"

U.S. House of Representatives

May 24, 2011

Mr. Chairman and Members of the Subcommittee,

Ya'a'teeh. I am Ben Shelly, President of the Navajo Nation. I thank the Committee on Natural Resources, Subcommittee on Indian and Alaska Native Affairs and Subcommittee on Water and Power, for this opportunity to provide testimony to the Committee regarding the future of the Navajo Generating Station, a coal-fired power plant located on the Navajo Nation, employing Navajo people and utilizing Navajo coal that is critical to the economy of the Navajo Nation.

THE NAVAJO NATION

The Navajo Reservation, or Diné'tah, is the homeland of the approximately 300,000 Navajo people. It covers more than 27,000 square miles within the exterior boundaries of Arizona, New Mexico, and Utah, also occupying parts of 13 counties in those states, and is a place of great beauty.

The Navajo people struggle with extreme poverty that places the reservation among the poorest regions in the United States. 48% of the Navajo people are unemployed and 40% live below the federal poverty line.

Our living conditions are substandard when compared with the rest of the United States. Navajo homes often lack basic infrastructure and amenities: 31% of homes do not have complete plumbing; 28% do not have operational kitchen facilities; 38% do not have water services; 32% are without electricity; and 60% of the homes lack basic telephone services, let alone having access to broadband and the internet.

NAVAJO GENERATING STATION

The Navajo Generating Station (NGS) is located in the outermost northwestern edge of the Navajo Reservation near the town of Page, Arizona. The Nation and owners of NGS entered into a plant site lease in 1969. NGS's operating agent is the Salt River Project (SRP), which owns 21.7% of the electric generating unit. The U.S. Bureau of Reclamation (BOR) owns 24.3%, Los Angeles Department of Water and Power (LADWP) owns 21.2%, Arizona Public Service Company owns 14.0%, Nevada Energy (NE) owns 11.3%, and Tucson Electric Power (TEP) owns 7.5%. NGS provides electricity to customers in Arizona, Nevada, and California, and also supplies a majority of the electricity for the Central Arizona Project (CAP).

Construction of the first of three electric generation units (EGUs) began in 1969. The first unit went online in 1974, and construction of the third unit was completed in 1976. Each EGU at NGS is rated at 750MW for a combined total of 2,250 MW. NGS uses high quality low-sulfur bituminous coal that is mined 78 miles away at the Kayenta Mine. The Kayenta Mine is located on Navajo and Hopi lands on Black Mesa and operated by Peabody Western Coal Company.

NGS employs 545 full-time workers, 80% of which are Native American. The Kayenta Mine employs 415 full-time workers, 90% of which are Native American. NGS and the Kayenta Mine together contribute approximately $140 million annually in revenues and wages to the Navajo Nation, and the Hopi Tribe has commented that 80% of its general revenues are from coal. NGS thus both directly and indirectly supports the Nation's overall economic viability, the health and welfare of the Navajo people and its communities, and the sustainability of the Navajo Nation as an independent sovereign nation.

CENTRAL ARIZONA PROJECT

Energy generated by NGS and attributable to the federal share of ownership in the plant is used to deliver water through the CAP system. Many benefits from NGS flow to and through the CAP system. The importance of NGS to the CAP and its customers will be addressed by others testifying today. However, I would like to touch briefly on the relationship of NGS to Indian water rights settlements in Arizona. The Secretary of the Interior has reserved a pool of Arizona's CAP water to be used to settle the water rights claims of Arizona tribes. NGS power keeps that water affordable. Increased power costs, whether attributable to capital improvements at NGS mandated by environmental regulatory action or plant closure would increase the cost of tribal CAP water significantly. In addition, revenue derived from the sale of surplus federal power is deposited in the Lower Colorado River Basin Development Fund and provides a source of funds for tribal water rights settlements. The Navajo Nation is engaged in negotiations to settle its water rights claims in Arizona. It is likely that any settlement will include CAP water delivered with NGS power and money from the Lower Basin Development Fund to build water delivery infrastructure projects.

UNCERTAINTIES FACING NAVAJO GENERATING STATION

The Navajo Nation, Navajo employees of NGS and the Kayenta mine, and their families and communities, and the various other stakeholders at NGS, are currently faced with uncertainty over the future of the plant. This uncertainty stems from several issues: the current lease negotiations between the Navajo Nation and the plant owners, proposed rule-making by the Environmental Protection Agency (EPA) which would impose Best Available Retrofit Technology (BART) combustion controls on the plant and the associated costs of such technology, negotiations for a new coal supply contract between NGS and Peabody, potential changes in the ownership interests of NGS, as well as expected future regulations or legislation limiting greenhouse gas (GHG) emissions, with the significant associated capital and operating costs for compliance associated with such regulation.

EMISSION UPGRADES

NGS has spent over $650 million on environmental control technology, including new Sulfur Dioxide (SO_2) limestone scrubbers that remove over 90% of the SO_2 emissions, Electrostatic Precipitators that capture 99% of the fly-ash that is recycled for uses as additives in cement or concrete construction materials, and Low-NO_x burners and Separated Over Fire Air Technology that reduce the NO_x emissions by 40%. NGS complies with all current federal air quality standards and emission limitations.

EPA RULE-MAKING FOR BART

The Navajo Generating Station is subject to regulation under the Clean Air Act Regional Haze Rule. The Regional Haze Rule was adopted to improve visibility in Federal Class I Areas, such as national parks, monuments and recreation areas. NGS is located in close proximity to 16 Class I Areas.

The goal of the Regional Haze Rule is to return visibility in federal Class I Areas (e.g. the Grand Canyon) to pristine conditions by 2064. The Rule requires 'reasonable progress' towards this goal. The EPA has the responsibility to establish a rate of reasonable progress for NGS, and to select appropriate technology to achieve meaningful emission reductions to meet the final visibility goal by 2064, rather than selecting a technology with exorbitant costs and compliance requirements by 2018, and in doing so adversely impacting the Navajo Nation and the Navajo people.

In 2009, the US EPA published an Advanced Notice of Proposed Rulemaking addressing preliminary issues in anticipation of the agency's determination of emissions controls that would be required as BART for NGS and a second coal-fired power plant located on the Nation's lands – Four Corners Power Plant. The US EPA is considering requiring installation of Selective Catalytic Reduction (SCR) technology as BART for NGS and has issued a proposed Federal Implementation Plan (FIP) that would require the installation of SCRs on all 5 EGUs at Four Corners.

The exorbitant capital and operating costs of SCR technology, while so much other uncertainty is facing NGS, would likely force closure of the plant if SCR is adopted as BART. Instead, the Nation supports using a phased approach to emission reductions for NGS. As the Nation commented to EPA in response to the ANPR, advanced combustion controls – Low NO_x Burners (LNB) and Separated Over Fire Air (SOFA) Technology, and ***not*** SCR, are BART for Navajo Generating Station at this time.

Implementing any more stringent technology as BART for NGS in the short term could force plant closure, an eventuality that would have catastrophic economic impacts on the Navajo Nation. NGS is located on Navajo Nation land, it utilizes the Nation's coal, and income from NGS and the Kayenta mine contribute substantially to the economy of the Navajo Nation, both directly through lease fees and from royalties and taxes on the Nation's coal, as well as indirectly through skilled jobs and employment for the Navajo people and through economic development in the way of service support jobs. Any

BART determination for NGS must give substantial consideration to the devastating impacts that closure of NGS would have on the Navajo Nation and the Navajo people.

The US EPA must also consider the cumulative effects of the BART determination for NGS regionally. Three coal-fired power plants are located on or near the Navajo Nation: NGS and Four Corners within the Navajo Nation, and the San Juan Generating Station adjacent to the Navajo Nation. All three coal fired plants and the coalmines that supply them contribute to the tribal economy and regional economic dynamics. Current and proposed environmental regulatory actions affecting these facilities, as well as the impact of past actions, including the closure of the Mojave Generating Station, and their potential cumulative economic impacts, should be considered in determining the BART for NGS.

OTHER INTERESTS

The Department of Interior (DOI) is proposing a study to provide various generation and emission control strategy options for responding to EPA's proposed BART determination for NGS. This study will consider the feasibility of transitioning NGS to cleaner energy production to improve the regional air quality while maintaining current energy and CAP water delivery obligations.

The National Renewable Energy Laboratory (NREL), the Department of Energy (DOE), including the Clean Coal Office (CCO) and the Tribal Energy Program (TEP), Sandia National Labs (SNL), Lawrence Livermore National Labs (LLNL), the DOI, the Navajo Nation, NGS, and CAP, and others, recognize the stake that many parties have in the future of NGS, and the power and water delivery obligations of CAP. These parties have expressed their intent to work together as a group to consider all potential technical options for NGS in light of the many and complex interests implicated by a potential closure of NGS.

NAVAJO NATION ENERGY POLICY

The Navajo Nation has vast reserves of coal and derives a substantial amount of its royalties, rent, fees, tax revenue, and jobs and salaries from coal mining and production of electricity from coal. The Nation's Energy Policy envisions coal production and coal-fired generation as key components of the Nation's economy and its "energy mix" decades into the future. As a resource tribe, the Navajo Nation will seek to shape fossil fuel legislation as the Nation continues to adapt to the already changing regulatory environment. But coal, along with the other leading fossil fuels, i.e. oil and natural gas, will remain the dominant energy sources for the world through 2035.

Down the road, important to using the Nation's coal will be development and deployment of clean-coal technologies, including sequestration and coal-to-liquid. However, these technologies require significant federal support, including governmental funding and incentives, before they can be reasonably implemented. In the meantime, and without such federal assistance and subsidies, federal environmental rule-making and policy must reflect the real world costs and realities, including, where applicable, the federal trust responsibility to promote and ensure the economic well-being of resource based tribes like the Navajo Nation.

The Navajo Nation supports renewable energy development as part of its overall energy portfolio and Energy Policy. The Nation will continue to seek to develop a "cleaner portfolio" to include such renewable sources as wind, solar, and biomass. However, at this time, intermittent renewables are not sufficiently reliable to meet the Navajo Nation's or the United States' power needs alone. Additionally, renewable technologies still have very high capital costs and, in the case of both solar and wind, would require large land withdrawals on the Navajo Nation. Any such land withdrawals would have socioeconomic costs as well, affecting traditional uses of the land by Navajo People such as grazing.

As a government responsible for the health and welfare of its people, the Navajo Nation believes that a determination of the future of NGS must be made in light of all relevant factors, including the environmental and health impacts of the plant. However, the current regulatory challenges facing NGS stem not from a health-based rulemaking, but one designed to reduce visibility in national parks. Before potential health benefits of a visibility-driven rulemaking can even be considered, serious work needs to be done to establish a baseline for environmental health for the Navajo Nation.

In the forefront of any discussion of the future of NGS must be consideration of the catastrophic economic impacts to the Navajo Nation and the Navajo People from any closure of NGS. Such discussions must consider the government-to-government relationship of the United States with the Navajo Nation, the federal trust responsibility over Navajo resources and to the Navajo people, and the critical role that coal production and coal-fired generation will continue to have for many, many years for the Navajo Nation's economy.

CONCLUSION

The Navajo Nation's economy depends on development of its energy resources. The Navajo Nation, like the rest of the world, also faces the challenges associated with energy dependency, including climate change, effects on our health and environment, and other impacts from energy development, including socioeconomic effects on the Navajo People such as changes in traditional land uses. As President of the Navajo Nation, I am regularly required to evaluate competing interests in making decisions that affect my people. I have given great thought to the issues surrounding coal-fired power generation on Navajo lands and I have decided that the Nation must work to secure the continued operation of both NGS and the Four Corners Power Plant.

The Navajo Nation is blessed with a wealth of natural fossil fuels and renewable energy resources—resources we have the right to develop, and which we have the capability to manage. NGS is an essential component of the Navajo Nation's economy and our energy portfolio, and must remain viable, for the sake of the Nation and our People, for years to come. I urge this Committee to take those actions within its power to make the viability and future of NGS a reality.

Ahe'hee. Thank you.

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For more information about the Regional Haze Rule, Best Available Retrofit Technology, Four Corners Power Plant and Navajo Generating Station, please call Manager Eugenia Quintana, Navajo Nation Environmental Protection Agency at: 928-871-7800 or email: eugeniaquintana@navajo-nsn.gov.